

# **EXHIBIT 5**

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**From:** Dreher, Kevin <[KDreher@btlaw.com](mailto:KDreher@btlaw.com)>

**Sent:** Wednesday, August 2, 2023 5:42 PM

**To:** Winters, Patrick <[PWinters@plunkettcooney.com](mailto:PWinters@plunkettcooney.com)>

**Cc:** Seth Jaffe <[sjaffe@hww-law.com](mailto:sjaffe@hww-law.com)>; Brent J. Gruber <[bgraber@hww-law.com](mailto:bgraber@hww-law.com)>; Wayne S. Karbal <[wkarpal@KARBALLAW.com](mailto:wkarpal@KARBALLAW.com)>; Howard J. Fishman <[hfishman@karballaw.com](mailto:hfishman@karballaw.com)>; Charles Browning <[cbrowning@plunkettcooney.com](mailto:cbrowning@plunkettcooney.com)>; Drew Block <[dblock@plunkettcooney.com](mailto:dblock@plunkettcooney.com)>; Stephanie Brochert <[sbrochert@plunkettcooney.com](mailto:sbrochert@plunkettcooney.com)>; Rivera, Ren <[KMinick@plunkettcooney.com](mailto:KMinick@plunkettcooney.com)>; Mary Glassford <[mglassford@plunkettcooney.com](mailto:mglassford@plunkettcooney.com)>; Hinton, Haley <[Haley.Hinton@btlaw.com](mailto:Haley.Hinton@btlaw.com)>; Kyureghian, Alice <[AKyureghian@btlaw.com](mailto:AKyureghian@btlaw.com)>; Koss, Kelly <[Kelly.Koss@btlaw.com](mailto:Kelly.Koss@btlaw.com)>; Dilday Miller, Kelsey <[kelsey.dildaymiller@btlaw.com](mailto:kelsey.dildaymiller@btlaw.com)>; Wilhoit, Kathryn <[Kathryn.Wilhoit@btlaw.com](mailto:Kathryn.Wilhoit@btlaw.com)>; Naccachian, Nora <[Nora.Naccachian@btlaw.com](mailto:Nora.Naccachian@btlaw.com)>

**Subject:** RE: Wolverine - Depositions

Counsel –

Travelers, true to its promises, has consistently hijacked discovery in this case by not producing the documents and witnesses sought and ordered to be produced and, instead, Travelers has repeatedly cancelled depositions of its witnesses only to now seek to schedule depositions of its witnesses during the last two weeks of discovery. This is not acceptable and, for that reason, Wolverine has already sought to extend fact discovery solely for the purpose of completing discovery as to Travelers. To the extent the Special Master/Court grants such relief, Wolverine will reschedule each of the depositions of the Travelers witness on a date and time after Wolverine has received all Travelers improperly withheld documents and has had an opportunity to review them in preparation for these depositions.

Subject to and without waiving Wolverine's objection as stated above and in the pending motions against Travelers, Wolverine responds to your proposal as outlined below in red.

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**From:** Winters, Patrick <[PWinters@plunkettcooney.com](mailto:PWinters@plunkettcooney.com)>

**Sent:** Wednesday, August 2, 2023 3:42 PM

**To:** Naccachian, Nora <[Nora.Naccachian@btlaw.com](mailto:Nora.Naccachian@btlaw.com)>; Wilhoit, Kathryn <[Kathryn.Wilhoit@btlaw.com](mailto:Kathryn.Wilhoit@btlaw.com)>

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**Subject:** [EXTERNAL] Wolverine - Depositions

**Caution:** This email originated from outside the Firm.

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Nora and Kathryn,

I have consolidated into this single email responses to your emails regarding deposition dates, and also address herein other outstanding issues regarding depositions.

- Loretta Powers
  - Defendants are available to take Ms. Powers' deposition on August 23, 2023. Please advise whether this deposition will proceed in-person (and where) or remotely. **RESPONSE: Agreed, this deposition will proceed remotely.**
- Richard Barnum
  - Defendants are available to take Mr. Barnum's virtually on September 6 and 7 (half day each day) and will of course agree to breaks as needed by Mr. Barnum. **RESPONSE: Agreed.**
- Jerry Hofman
  - On July 31, Wolverine proposed August 4 for the deposition of Jerry Hofman. Four business days is not reasonable notice, and Defendants are not available on August 4. Please provide proposed alternative dates. Additionally, we would like to take this deposition in person. **RESPONSE: Your belated response is unacceptable. There is no reason why Defendants could not have taken this deposition on August 4<sup>th</sup>, particularly given the fact that Defendants have rejected at least 3 prior dates for Mr. Hofman's deposition and particularly given there is only a month left in fact discovery.**
- Bryan Rose
  - Wolverine proposed that this deposition take place the Friday of Labor Day weekend. Defendants are not available on that date. Please provide proposed alternative dates. We would like to take this deposition in person as well. **RESPONSE: Your response is unacceptable. Wolverine proposed September 1<sup>st</sup> as the date for Mr. Rose's deposition on May 23<sup>rd</sup>, over 2 months ago, and Defendants failed to respond until today. As such, Mr. Rose will be made available in person in Grand Rapids for his deposition on September 1<sup>st</sup>. Each of you has plenty of lawyers available to take this deposition and you have had over 2 months to prepare and another month still to prepare. We will see you there, at 9 AM EST at B&T's Grand Rapids office.**
- With respect to the notices of deposition that Wolverine served on Travelers regarding historic Travelers' employees:
  - As we have told you before, we have been working to identify the current status of these historical Travelers' employees. The depositions will not proceed on the dates unilaterally selected by Wolverine. Most of these individuals did not work on anything related to Wolverine during the time frames deemed discoverable by the Special Master (1/1/1980 – 1/1/1986 and 1/1/2014 – 1/1/2017, per ECF No. 1989). **RESPONSE: Wolverine notice these witnesses for deposition on June 7<sup>th</sup>, nearly 2 months ago and this is your first response, Travelers never informed Wolverine that you are working to identify their current status. That is unacceptable and prejudicial.**
  - With respect to those individuals who performed work relating to Wolverine during the time periods that are subject to discovery (Timothy J. Howe, Jacqueline Bradley Stephen Reynolds and Jo Gorman), they are no longer employed by Travelers, having either retired or moved on to other employment. Travelers is attempting to contact those individuals based upon their last known address to assess their availability. If we are able to make contact with them, we will advise Wolverine and provide proposed deposition dates. **RESPONSE: Wolverine needs to know immediately if and when these witnesses will be made available for deposition. If that information is not provided by the end of this week, please let us know a time next Monday when you are available to meet and confer.**

- Ken McNabb is deceased. **RESPONSE: Thank you for the update.**
- All of the other witnesses Wolverine has noticed (Jeffrey Sprinkle, Mike McClure, Kevin Stewart, Donna Geuser, Mike Robitaille, William Burgess, Mark McGowen, Dale Furman, Jr., and Kevin Barrett) worked outside of the 1980-1986 time frame and, accordingly, have no discoverable information pursuant to the Court's prior orders, and Travelers will not produce them for deposition. **RESPONSE: All these individuals identified for deposition by Wolverine were involved in inspecting Wolverine's properties and/or preparing inspection reports between 1980-1986, as the evidence in this case states. Kevin Barrett, by way of example, was involved in an inspection and report prepared by Travelers in the 1980-1986 time frame related to pollution conditions. Your representations to the contrary are belied by the evidence in this case and you must find them and make them available for deposition, or we will be forced to subpoena them. Please let us know when you are available tomorrow for a meet and confer with respect to these deponents.**
- Travelers will have two corporate designees with respect to Wolverine's 30(b)(6) deposition, subject to Travelers' previously circulated objects and the orders of the Court. The first witness is available to be deposed on August 29, 2023 in Hartford, CT. The second witness is available to be deposed on September 7, 2023 in Hartford, CT. **RESPONSE: Subject to Wolverine's objection as stated above and in its pending motions against Travelers, including Wolverine's request for a unilateral extensions of discovery, Wolverine will for the time being plan to take these depositions on these dates subject to the below. Please identify the name of each respective witness and the topics each witness will be prepared to address by this Friday at noon CST.**
- Jane Kelly is available for her deposition on September 6, 2023 in Hartford, CT. **RESPONSE: Subject to Wolverine's objection as stated above and in its pending motions against Travelers, including Wolverine's request for a unilateral extensions of discovery, Wolverine will, for the time being, plan to take Ms. Kelly's deposition on September 6<sup>th</sup> subject to the following. If Ms. Kelly will be presented by Travelers as a 30(B)(6) deponent on September 7<sup>th</sup>, it is Wolverine's position that it would be proper and more efficient to take her deposition in her 30(B)(6) capacity on September 6<sup>th</sup>, followed by her deposition as a fact witness on September 7<sup>th</sup>. Please confirm.**
- Tom Lane is available for his deposition on August 31, 2023 in person in or near Manistee or Cadillac, MI. **RESPONSE: Wolverine will take this deposition on August 31<sup>st</sup> remotely, subject to Wolverine's objections as stated above and in its pending motions against Travelers, including Wolverine's request for a unilateral extensions of discovery.**
- On July 10, 2023, Defendants noticed the depositions of Bob DeBusschere, Guy Hayden and David Huey. On July 17, 2023, Defendants noticed the deposition of Frank Metsaars. As stated in those notices, the depositions will be limited to each witness's knowledge of the events identified in Wolverine's response to Interrogatory Number 2 of Wolverine's Objections and Responses to Defendants' Third Set of Phase II Interrogatories and Wolverine's April 26, 2023 Supplemental Phase II Initial Disclosure Statement. Wolverine has not confirmed whether those depositions will proceed on the dates noticed or provided alternate dates. Please do so.
  - Defendants also will also be serving similar notices with respect to Greg Mills, John O'Brien, and Bob Winegar. Please provide proposed dates for those depositions as well. **RESPONSE: Wolverine has already produced each of these witnesses for deposition and will not agree to reproduce them yet again. Defendants had ample opportunity to ask**

these witnesses whether they had any knowledge related to any of the questions posed by Defendants in their Third Set of Interrogatories. That Defendants failed to ask such questions does not justify further harassing and annoying these witnesses or Wolverine, yet again.

- Wolverine has advised the Defendants that it will present two corporate representatives for the 30(b)(6) deposition of Wolverine, who will be deposed on August 16 and August 25. Please identify the topics on which each witness will be designated to provide testimony. **RESPONSE: Wolverine will respond separately with this information.**

**Kevin Dreher** | Partner

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